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United States District Court  
Eastern District of California

James D. Maciel,  
Plaintiff, No. Civ. S 02-2675 MCE PAN P  
vs. Order  
Tom Prebula, et al.,  
Defendants.

-oOo-

Plaintiff is a state prisoner proceeding without counsel in a civil rights action. The court denied plaintiff's application for leave to proceed in forma pauperis.

January 7, 2005, the court found that plaintiff's allegations against defendants Prebula, Pulsipher, Miller, May, Gavia and Cry failed to state claims for relief, and March 15, 2005, the district court dismissed claims against those defendants on that ground. April 8, 2005, the district court denied reconsideration of that order.

1 The court has approved service of process against defendants  
2 Manuel, Riddle, Andreasen, Allen, Sullivan, Zaro and Stratton  
3 based on the same events. December 20, 2004, plaintiff explained  
4 that he has not served process upon Manuel, Riddle, Andreasen,  
5 Allen, Sullivan, Zaro and Stratton and requested the court re-  
6 issue summons to them.

7 The court has an affirmative duty under 28 U.S.C. section  
8 1915A to screen plaintiff's pleading at any time "practicable"  
9 and dismiss any portion of the pleading that fails to state a  
10 claim upon which relief can be granted. The court recently  
11 dismissed claims against some defendants for failure to state a  
12 claim (upon defendants' motion). Having examined the case in the  
13 context of a dispositive motion, the court now concludes the  
14 pleading also fails to state a claim against Manuel, Riddle,  
15 Andreasen, Allen, Sullivan, Zaro and Stratton.

16 Good cause appearing, plaintiff shall show cause, within 10  
17 days, why the court should not dismiss claims against defendants  
18 Manuel, Riddle, Andreasen, Allen, Sullivan, Zaro and Stratton for  
19 the same reasons the court has dismissed his claims against other  
20 defendants.

21 So ordered.

22 Dated: April 26, 2005.

23 /s/ Peter A. Nowinski  
24 PETER A. NOWINSKI  
25 Magistrate Judge  
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